

SENATE BILL NO. 234—SENATOR HORSFORD

MARCH 10, 2011

Referred to Committee on Commerce, Labor and Energy

**SUMMARY**—Revises provisions relating to motor vehicle dealers.  
(BDR 43-386)

**FISCAL NOTE:** Effect on Local Government: Increases or Newly  
Provides for Term of Imprisonment in County or City  
Jail or Detention Facility.  
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

AN ACT relating to vehicles; prohibiting a manufacturer from requiring a dealer to alter substantially an existing facility of the dealer or construct a new facility; prohibiting a manufacturer from taking adverse action against a dealer relating to the exportation of a vehicle outside the United States except under certain circumstances; providing that it is an unfair act or practice for any manufacturer to refuse the return of or reduce the price of a part, accessory or assembled component under certain circumstances; providing for the licensure of an agent of a broker; revising provisions governing the modification or replacement of a franchise; revising provisions governing warranties for certain used vehicles; revising the provision regarding the compensation owed to a dealer upon the termination or discontinuance of a franchise; revising provisions relating to unfair practices; establishing fees; providing a penalty; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

**Section 2** of this bill prohibits a manufacturer from requiring a dealer to alter substantially an existing facility or to construct a new facility for any new vehicles that are handled by the dealer.

**Section 3** of this bill prohibits a manufacturer from taking adverse action against a dealer who sells a vehicle which is later exported outside the United



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6 States, unless the dealer had actual knowledge of or reasonably should have known  
7 of the exportation of the vehicle.

8 **Section 4** of this bill provides that it is an unfair act or practice for any  
9 manufacturer to refuse to accept and reimburse a dealer for the return of a part,  
10 accessory or assembled component for less than 1 year after the date on which the  
11 dealer purchased the part, accessory or assembled component. **Section 4** further  
12 prohibits a manufacturer from reducing the suggested retail price of any part,  
13 accessory or assembled component, unless the cost to the dealer of the part,  
14 accessory or assembled component is reduced by an equal amount.

15 **Sections 5 and 17** of this bill provide for the licensure of an agent for a broker  
16 of vehicles in this State. A person who violates the provisions governing the  
17 licensure of such agents is guilty of a misdemeanor.

18 **Section 9** of this bill provides that if a manufacturer is purchased by another  
19 manufacturer or entity, a dealer must be offered a franchise agreement that is  
20 substantially similar to the original franchise agreement.

21 **Sections 13 and 14** of this bill provide that a used vehicle dealer who sells to a  
22 retail customer a used vehicle with not less than 75,000 miles or more than 105,000  
23 miles on the odometer must provide to that retail customer an express written  
24 warranty under certain circumstances. **Section 15** of this bill provides for the  
25 submission of complaints by a retail customer for a violation by the used vehicle  
26 dealer of such an express warranty.

27 **Section 16** of this bill provides that the forms for the application for credit and  
28 contracts to be used in the sale of vehicles prescribed by the Commissioner of  
29 Financial Institutions must contain a provision which provides that if the seller  
30 elects to rescind the contract, the seller must provide written notice to the buyer not  
31 less than 20 days after the date of the contract.

32 Under existing law, a manufacturer or distributor is required to pay a dealer  
33 compensation for the dealer's inventory of new vehicles, parts and accessories,  
34 equipment and place of business if the manufacturer or distributor terminates the  
35 dealer's franchise in certain circumstances. (NRS 482.363521) **Section 8** of this bill  
36 requires the manufacturer or distributor to compensate the dealer for the fair market  
37 value of the franchise as of the day before the termination is announced. **Section 8**  
38 also revises the method used to determine the compensation owed to a dealer for  
39 the dealer's place of business.

40 **Section 10** of this bill provides that a refusal to accept an amended claim for  
41 parts and labor or a claim that was not filed before the manufacturer's deadline that  
42 is submitted within 120 days after the claim was first filed or was due is an unfair  
43 practice. **Section 10** also makes an audit confirming a warranty repair, sales  
44 incentive or rebate performed more than 6 months after a claim was made an unfair  
45 practice. **Section 11** of this bill prohibits a manufacturer from preventing a dealer  
46 from disclosing a defect or providing certain information relating to warranty  
47 coverage.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 482 of NRS is hereby amended by adding  
2 thereto the provisions set forth as sections 2 to 5, inclusive, of this  
3 act.

4 **Sec. 2.** *A manufacturer shall not require a dealer:*

5 *1. To alter substantially an existing facility of the dealer; or*



2. To construct a new facility,  
→ for any new vehicles that are handled by the dealer.

**Sec. 3.** A manufacturer shall not modify the franchise of a dealer or take any adverse action against a dealer that sells a vehicle which is later exported outside the United States, unless the dealer had actual knowledge of or reasonably should have known of the exportation of the vehicle.

**Sec. 4.** 1. Except as otherwise provided in subsection 3, it is an unfair act or practice for any manufacturer:

(a) To refuse to accept and reimburse a dealer for the return of a part, accessory or assembled component for less than 1 year after the date on which the dealer purchased the part, accessory or assembled component.

(b) To reduce the suggested retail price of any part, accessory or assembled component, unless the cost to the dealer for the part, accessory or assembled component is reduced by an equal amount.

2. A manufacturer shall reimburse a dealer in an amount not less than the purchase price for each part, accessory or assembled component described in paragraph (a) of subsection 1.

3. This section does not apply to any part, accessory or assembled component that is not returned to the manufacturer in the original package or container as purchased by the dealer.

**Sec. 5.** 1. A person shall not engage in the activity of an agent for a broker, or act in the capacity of an agent in this State without first having received a license or temporary permit from the Department. Before issuing a license or temporary permit to engage in the activity of an agent, the Department shall require the applicant to submit to the Department:

(a) An application, signed and verified by the applicant, stating:

(1) That the applicant is to engage in the activity of an agent;

(2) The name, residence address and social security number of the applicant; and

(3) The name and address of the employer of the applicant.

(b) Proof of the employment of the applicant by a broker at the time the application is filed.

(c) A statement as to whether any previous application of the applicant has been denied or any previous license of the applicant has been revoked.

(d) Payment of a nonrefundable license fee of \$75. A license expires on December 31 of each calendar year and may be renewed annually upon the payment of a fee of \$40.

(e) For initial licensure, a complete set of the applicant's fingerprints and written permission authorizing the Department to



1 *forward those fingerprints to the Central Repository for Nevada*  
2 *Records of Criminal History for submission to the Federal Bureau*  
3 *of Investigation for its report.*

4 *(f) Any other information the Department determines*  
5 *necessary.*

6 *2. The Department may issue a 60-day temporary permit to*  
7 *an applicant who has submitted a complete application and paid*  
8 *the required fee.*

9 *3. A license to act as an agent of a broker issued pursuant to*  
10 *this section does not authorize a person to engage in the business*  
11 *of selling mobile homes.*

12 *4. The Department may deny an application for a license as*  
13 *an agent or suspend or revoke a license issued pursuant to this*  
14 *section upon any of the following grounds:*

15 *(a) Failure of the applicant to establish by proof satisfactory to*  
16 *the Department that the applicant is employed by a broker.*

17 *(b) Conviction of a felony.*

18 *(c) Conviction of a gross misdemeanor.*

19 *(d) Conviction of a misdemeanor for a violation of any of the*  
20 *provisions of this chapter.*

21 *(e) Falsification of the application.*

22 *(f) Evidence of unfitness as described in NRS 482.3255.*

23 *(g) Failure of the applicant to provide any information*  
24 *determined necessary by the Department to process the*  
25 *application.*

26 *(h) Any reason determined by the Director to be in the best*  
27 *interests of the public.*

28 *5. An agent shall not engage in any activity, or act in any*  
29 *other capacity as an agent other than for the account of, or for*  
30 *and on behalf of, a single employer, at a specified place of*  
31 *business of that employer, who must be a broker.*

32 *6. If an application for a license as an agent is denied, the*  
33 *applicant may reapply for a license not less than 6 months after*  
34 *the denial.*

35 *7. An agent's license must be posted in a conspicuous place*  
36 *on the premises of the broker by whom the agent is employed.*

37 *8. If a person who is licensed as an agent ceases to be*  
38 *employed by a broker, the person's license to act as an agent is*  
39 *automatically suspended and the person's right to act as an agent*  
40 *immediately ceases, and the person shall not engage in the activity*  
41 *of an agent until the person has:*

42 *(a) Paid the Department a transfer fee of \$20 and submitted a*  
43 *certificate of employment indicating that the person has been*  
44 *reemployed by a broker; and*



1     ***(b) Presented a current temporary permit or new license to the***  
2     ***broker by whom the person is employed.***

3     ***9. If an agent changes his or her residential address, the***  
4     ***agent shall submit a written notice of the change to the***  
5     ***Department within 10 days after the change occurs.***

6     ***10. If a person who holds a temporary permit to act as an***  
7     ***agent ceases to be employed by a broker, the person's permit to act***  
8     ***as an agent is automatically suspended, the person's right to act as***  
9     ***an agent immediately ceases and the person's application for***  
10    ***licensure must be denied until the person has:***

11    ***(a) Paid the Department a transfer fee of \$20 and submitted a***  
12    ***certificate of employment indicating that the person has been***  
13    ***reemployed by a broker; and***

14    ***(b) Presented a current temporary permit or new license to the***  
15    ***broker by whom the person is employed.***

16    ***11. A broker who employs an agent shall notify the***  
17    ***Department of the termination of the agent's employment not later***  
18    ***than 10 days after the date of termination by forwarding the***  
19    ***agent's license to the Department.***

20    ***12. Any person who fails to comply with the provisions of this***  
21    ***section is guilty of a misdemeanor except as otherwise provided in***  
22    ***NRS 482.555.***

23    ***13. As used in this section, "agent" means a person who is***  
24    ***employed by a broker and who, for a fee or any other***  
25    ***consideration, assists the broker in offering to provide to another***  
26    ***person the service of arranging, negotiating or assisting in the***  
27    ***purchase of a new or used vehicle which has not been registered***  
28    ***or for which an ownership interest has not been taken by the***  
29    ***broker.***

30    **Sec. 6.** NRS 482.319 is hereby amended to read as follows:

31    482.319 1. Except as otherwise provided in subsection 5, a  
32    natural person who applies for the issuance or renewal of a license  
33    issued pursuant to the provisions of NRS 482.318 to 482.363105,  
34    inclusive, ***and sections 2 to 5, inclusive, of this act*** shall submit to  
35    the Department the statement prescribed by the Division of Welfare  
36    and Supportive Services of the Department of Health and Human  
37    Services pursuant to NRS 425.520. The statement must be  
38    completed and signed by the applicant.

39    2. The Department shall include the statement required  
40    pursuant to subsection 1 in:

41    (a) The application or any other forms that must be submitted  
42    for the issuance or renewal of the license; or

43    (b) A separate form prescribed by the Department.

44    3. A license may not be issued or renewed by the Department  
45    pursuant to the provisions of NRS 482.318 to 482.363105,



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1 inclusive, *and sections 2 to 5, inclusive, of this act* if the applicant  
2 is a natural person who:

3 (a) Fails to submit the statement required pursuant to subsection  
4 1; or

5 (b) Indicates on the statement submitted pursuant to subsection  
6 1 that the applicant is subject to a court order for the support of a  
7 child and is not in compliance with the order or a plan approved by  
8 the district attorney or other public agency enforcing the order for  
9 the repayment of the amount owed pursuant to the order.

10 4. If an applicant indicates on the statement submitted pursuant  
11 to subsection 1 that the applicant is subject to a court order for the  
12 support of a child and is not in compliance with the order or a plan  
13 approved by the district attorney or other public agency enforcing  
14 the order for the repayment of the amount owed pursuant to the  
15 order, the Department shall advise the applicant to contact the  
16 district attorney or other public agency enforcing the order to  
17 determine the actions that the applicant may take to satisfy the  
18 arrearage.

19 5. If a licensee renews an existing license electronically, the  
20 licensee shall keep the original of the statement required pursuant to  
21 subsection 1 at his or her place of business for not less than 3 years  
22 after submitting the electronic renewal. The statement must be  
23 available during business hours for inspection by any authorized  
24 agent of the Director or the State of Nevada.

25 **Sec. 7.** NRS 482.3195 is hereby amended to read as follows:

26 482.3195 1. If the Department receives a copy of a court  
27 order issued pursuant to NRS 425.540 that provides for the  
28 suspension of all professional, occupational and recreational  
29 licenses, certificates and permits issued to a person who is the  
30 holder of a license issued pursuant to NRS 482.318 to 482.363105,  
31 inclusive, *and sections 2 to 5, inclusive, of this act*, the Department  
32 shall deem the license issued to that person to be suspended at the  
33 end of the 30th day after the date on which the court order was  
34 issued unless the Department receives a letter issued to the holder of  
35 the license by the district attorney or other public agency pursuant to  
36 NRS 425.550 stating that the holder of the license has complied  
37 with the subpoena or warrant or has satisfied the arrearage pursuant  
38 to NRS 425.560.

39 2. The Department shall reinstate a license issued pursuant to  
40 NRS 482.318 to 482.363105, inclusive, *and sections 2 to 5,*  
41 *inclusive, of this act* that has been suspended by a district court  
42 pursuant to NRS 425.540 if the Department receives a letter issued  
43 by the district attorney or other public agency pursuant to NRS  
44 425.550 to the person whose license was suspended stating that the  
45 person whose license was suspended has complied with the



1 subpoena or warrant or has satisfied the arrearage pursuant to  
2 NRS 425.560.

3 **Sec. 8.** NRS 482.363521 is hereby amended to read as  
4 follows:

5 482.363521 1. Upon the termination or refusal to continue a  
6 franchise, the manufacturer or distributor shall compensate the  
7 dealer for:

8 (a) The dealer's inventory of new vehicles, including new  
9 vehicles not of the current model year if delivered to the dealer  
10 during the 18-month period immediately preceding the effective  
11 date of the termination or refusal to continue the franchise. As used  
12 in this paragraph, a "new vehicle" is one which has not been  
13 damaged, materially altered or registered with the Department or  
14 with the appropriate agency of authority of any other state, the  
15 District of Columbia, any territory or possession of the United  
16 States or any foreign state, province or country.

17 (b) The dealer's inventory of parts and accessories which:

18 (1) Have been purchased by the dealer from the manufacturer  
19 or distributor; and

20 (2) Are listed in a current parts catalog of the manufacturer  
21 or distributor.

22 (c) Any special tools purchased by the dealer from the  
23 manufacturer or distributor, less a reasonable allowance for  
24 depreciation.

25 (d) Any equipment, furnishings or signs purchased by the dealer  
26 from the manufacturer or distributor, less a reasonable allowance for  
27 depreciation.

28 (e) Except as otherwise provided in subsection 4, the fair ~~rental~~  
29 ~~value for 90 days, and any additional period allowed by the Director~~  
30 ~~after considering the difficulty of finding a new tenant for the~~  
31 ~~dealer's premises affected, after the effective date of the termination~~  
32 ~~or refusal to continue of the portion of the dealer's place of business~~  
33 ~~that was used by the dealer to sell or service vehicles or other~~  
34 ~~products of the manufacturer or distributor.] market value of the~~  
35 *franchise in an amount not less than the fair market value of the*  
36 *franchise on the day before the manufacturer or distributor*  
37 *announces the action that results in the termination or refusal to*  
38 *continue the franchise.*

39 (f) *Except as otherwise provided in subsection 4, 7 or 8, the*  
40 *dealer's place of business that was used by the dealer to sell or*  
41 *service vehicles or other products of the manufacturer or*  
42 *distributor in an amount determined pursuant to subsection 6.*

43 2. Compensation paid pursuant to paragraphs (a) to (d),  
44 inclusive, of subsection 1 must be paid in an amount at least equal to  
45 the greater of:



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(a) The amount actually paid by the dealer for the vehicles, parts, tools and equipment; or

(b) The amount currently paid by other dealers in this State for the vehicles, parts, tools and equipment.

3. If compensation is paid pursuant to ~~paragraph~~ paragraphs (e) and (f) of subsection 1, the dealer shall allow the manufacturer or distributor paying the compensation the use and possession of the premises affected.

4. The manufacturer or distributor is not required to pay compensation pursuant to ~~paragraph~~ paragraphs (e) and (f) of subsection 1 if the dealer has been convicted of a crime involving fraud in connection with his or her application for or operation of the franchise ~~or~~ *or if the dealer voluntarily terminates the franchise.*

5. This section does not relieve a dealer of the obligation to mitigate damages resulting from the termination or refusal to continue the franchise.

*6. Except as otherwise provided in subsection 7 or 8, compensation paid pursuant to paragraph (f) of subsection 1:*

*(a) For a place of business leased by the dealer from the manufacturer or distributor or a subsidiary of the manufacturer or distributor, must include the forgiveness of any future lease obligations.*

*(b) For a place of business leased by the dealer from a person other than the manufacturer or distributor or a subsidiary of the manufacturer or distributor, must be paid in an amount not less than the lesser of rent for the unexpired term of the lease or 36 months' rent.*

*(c) For a place of business owned by the dealer, must be paid in an amount not less than the reasonable rental value of the place of business for 36 months.*

*(d) Must be paid within 60 days after the effective date of the termination or refusal to continue a franchise. The manufacturer or distributor may make payment jointly to the dealer and any party having a security interest or ownership interest in the place of business.*

7. The manufacturer or distributor is not required to pay compensation pursuant to paragraph (f) of subsection 1 unless the dealer attempts to mitigate damages resulting from the termination or refusal to continue the franchise by listing the place of business for lease or sublease with a licensed real estate broker, broker-salesperson or salesperson within 30 days after the effective date of the termination or refusal to continue the franchise and reasonably cooperating with the real estate broker, broker-salesperson or salesperson in the performance of his or her duties.



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*If the dealer is successful in leasing or subleasing the place of business pursuant to this subsection, the dealer shall pay the manufacturer or distributor the net revenue received from the lease or sublease in an amount not greater than the total compensation received by the dealer pursuant to paragraph (f) of subsection 1.*

*8. The manufacturer or distributor is not required to pay compensation pursuant to paragraph (f) of subsection 1 if the termination or refusal to continue the franchise is the result of:*

*(a) The insolvency of the dealer or the filing of any petition by or against the dealer under any bankruptcy or receivership law;*

*(b) Any unlawful business practice that the manufacturer or distributor has previously warned the dealer in writing to cease;*

*(c) The dealer ceasing business operations; or*

*(d) A voluntary act of the dealer.*

**Sec. 9.** NRS 482.36354 is hereby amended to read as follows:

482.36354 1. A manufacturer or distributor shall not modify the franchise of a dealer or replace the franchise with another franchise if the modification or replacement would have a substantially adverse effect upon the dealer's investment or obligations to provide sales and service, unless:

(a) The manufacturer or distributor has given written notice of its intention to the Director and the dealer affected by the intended modification or replacement; and

(b) Either of the following conditions occurs:

(1) The dealer does not file a protest with the Director within 30 days after receiving the notice; or

(2) After a protest has been filed with the Director and the Director has conducted a hearing, the Director issues an order authorizing the manufacturer or distributor to modify or replace the franchise.

2. The notice required by subsection 1 must be given to the dealer and to the Director at least 60 days before the date on which the intended action is to take place.

3. If a manufacturer or distributor changes the area of primary responsibility of a dealer, the change constitutes a modification of the franchise of the dealer for the purposes of NRS 482.36311 to 482.36425, inclusive. As used in this subsection, "area of primary responsibility" means the geographic area in which a dealer, pursuant to a franchise agreement, is responsible for selling, servicing and otherwise representing the products of a manufacturer or distributor.

*4. Notwithstanding the provisions of this section, if a manufacturer is purchased by another manufacturer or entity, a dealer must be offered a franchise agreement that is substantially*



*similar to the original franchise agreement between the dealer and the manufacturer being purchased.*

**Sec. 10.** NRS 482.36385 is hereby amended to read as follows:

482.36385 It is an unfair act or practice for any manufacturer, distributor or factory branch, directly or through any representative, to:

1. Compete with a dealer. A manufacturer or distributor shall not be deemed to be competing when operating a previously existing dealership temporarily for a reasonable period, or in a bona fide retail operation which is for sale to any qualified person at a fair and reasonable price, or in a bona fide relationship in which a person has made a significant investment subject to loss in the dealership and can reasonably expect to acquire full ownership of the dealership on reasonable terms and conditions.

2. Discriminate unfairly among its dealers, or fail without good cause to comply with franchise agreements, with respect to warranty reimbursement or authority granted to its dealers to make warranty adjustments with retail customers.

3. Fail to compensate a dealer fairly for the work and services which the dealer is required to perform in connection with the delivery and preparation obligations under any franchise, or fail to compensate a dealer fairly for labor, parts and other expenses incurred by the dealer under the manufacturer's warranty agreements. The manufacturer shall set forth in writing the respective obligations of a dealer and the manufacturer in the preparation of a vehicle for delivery, and as between them a dealer's liability for a defective product is limited to the obligation so set forth. Fair compensation includes diagnosis and reasonable administrative and clerical costs. The dealer's compensation for parts and labor to satisfy a warranty must not be less than the amount of money charged to its various retail customers for parts and labor that are not covered by a warranty. If parts are supplied by the manufacturer, including exchanged parts and assembled components, the dealer is entitled with respect to each part to an amount not less than the dealer's normal retail markup for the part. This subsection does not apply to compensation for any part, system, fixture, appliance, furnishing, accessory or feature of a motor home or recreational vehicle that is designed, used and maintained primarily for nonvehicular, residential purposes.

4. Fail to ~~pay~~:

*(a) Pay* all claims made by dealers for compensation for delivery and preparation work, transportation claims, special campaigns and work to satisfy warranties within 30 days after



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1 approval, or fail to approve or disapprove such claims within 30  
2 days after receipt ~~[, or disapprove]~~ ;

3 *(b) Disapprove* any claim without notice to the dealer in writing  
4 of the grounds for disapproval ~~[.]~~ ;

5 *(c) Accept an amended claim for labor and parts if the*  
6 *amended claim is submitted not later than 120 days after the claim*  
7 *being amended was first submitted; or*

8 *(d) Accept a claim for labor and parts which was not submitted*  
9 *within the time required by the manufacturer due to neglect or*  
10 *mistake by the dealer if the claim is submitted not later than 120*  
11 *days after the date on which the claim was required to be*  
12 *submitted.*

13 ↪ Failure to approve or disapprove or to pay within the specified  
14 time limits in an individual case does not constitute a violation of  
15 this section if the failure is because of reasons beyond the control of  
16 the manufacturer, distributor or factory branch.

17 5. Sell a new vehicle to a person who is not licensed as a new  
18 vehicle dealer under the provisions of this chapter.

19 6. Use false, deceptive or misleading advertising or engage in  
20 deceptive acts in connection with the manufacturer's or distributor's  
21 business.

22 7. Perform an audit to confirm a warranty repair, sales  
23 incentive or rebate more than ~~[12]~~ 6 months after the date ~~[of the~~  
24 ~~transaction.]~~ *the claim was made.*

25 8. Prohibit or prevent a dealer from appealing the results of an  
26 audit to confirm a warranty repair, sales incentive or rebate, or to  
27 require that such an appeal be conducted at a location other than the  
28 dealer's place of business.

29 **Sec. 11.** NRS 482.36389 is hereby amended to read as  
30 follows:

31 482.36389 A manufacturer shall not ~~[require]~~ :

32 *1. Require* a dealer to disclose information concerning a  
33 customer to the manufacturer or a third party if the customer objects  
34 or the disclosure is otherwise unlawful ~~[.]~~ ; *or*

35 *2. Prohibit or prevent a dealer from disclosing a defect or*  
36 *notifying customers of available warranty coverage and expiration*  
37 *dates of existing warranty coverage.*

38 **Sec. 12.** NRS 482.36661 is hereby amended to read as  
39 follows:

40 482.36661 Before a used vehicle dealer may sell to a retail  
41 customer a used vehicle the odometer of which registers *at least*  
42 75,000 ~~[miles or more,]~~ *but less than 105,000 miles*, the used  
43 vehicle dealer must conduct a reasonably thorough inspection of the  
44 soundness and safety of the vehicle's engine and drivetrain and  
45 disclose in writing any defects in the engine or drivetrain known to



1 the dealer or which the dealer reasonably should have known after  
2 conducting the inspection.

3 **Sec. 13.** NRS 482.36662 is hereby amended to read as  
4 follows:

5 482.36662 1. A used vehicle dealer who sells to a retail  
6 customer a used vehicle the odometer of which registers *at least*  
7 75,000 *but less than 105,000* miles ~~for more~~ shall provide to that  
8 retail customer an express written warranty which complies with the  
9 requirements set forth in subsection 2 and is valid for the period set  
10 forth in the schedule of warranties created pursuant to NRS  
11 482.36663, if the used vehicle dealer is the subject of more than  
12 three substantiated complaints filed against the dealer with the  
13 Department ~~of Motor Vehicles~~ during a 12-month period.

14 2. An express written warranty required pursuant to subsection  
15 1 must contain a statement that, in the event the operation of the  
16 used vehicle becomes impaired as a result of a defect in a  
17 component or system of the vehicle's engine or drivetrain, the used  
18 vehicle dealer shall, with reasonable promptness, correct the defect  
19 or cause the defect to be corrected.

20 **Sec. 14.** NRS 482.36663 is hereby amended to read as  
21 follows:

22 482.36663 If an express written warranty is provided to a retail  
23 customer for a used vehicle pursuant to NRS 482.36662, the  
24 duration of the warranty must be determined pursuant to this  
25 section. If, on the date the vehicle was purchased from the used  
26 vehicle dealer, the odometer in the used vehicle registered:

27 1. At least 75,000 but less than 80,001 miles, the warranty is  
28 valid for a period of 30 days therefrom or until the odometer in the  
29 vehicle registers 1,000 miles more than on the date the vehicle was  
30 purchased from the used vehicle dealer, whichever occurs earlier.

31 2. At least 80,001 but less than 85,001 miles, the warranty is  
32 valid for a period of 20 days therefrom or until the odometer in the  
33 vehicle registers 600 miles more than on the date the vehicle was  
34 purchased from the used vehicle dealer, whichever occurs earlier.

35 3. At least 85,001 but less than 90,001 miles, the warranty is  
36 valid for a period of 10 days therefrom or until the odometer in the  
37 vehicle registers 300 miles more than on the date the vehicle was  
38 purchased from the used vehicle dealer, whichever occurs earlier.

39 4. At least 90,001 but less than 100,001 miles, the warranty is  
40 valid for a period of 5 days therefrom or until the odometer in the  
41 vehicle registers 150 miles more than on the date the vehicle was  
42 purchased from the used vehicle dealer, whichever occurs earlier.

43 5. At least 100,001 *but less than 105,000* miles, the warranty is  
44 valid for a period of 2 days therefrom or until the odometer in the



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1 vehicle registers 100 miles more than on the date the vehicle was  
2 purchased from the used vehicle dealer, whichever occurs earlier.  
3 ➡ The period for which a warranty is valid pursuant to this section  
4 must be tolled during any period in which the dealer has possession  
5 of the vehicle or the operation of the vehicle is impaired and the  
6 vehicle is inoperable due to a defect in the vehicle's engine or  
7 drivetrain.

8 **Sec. 15.** NRS 482.36664 is hereby amended to read as  
9 follows:

10 482.36664 1. A retail customer who purchases a used vehicle  
11 the odometer of which registers *at least 75,000 but less than*  
12 *105,000* miles ~~for more~~ may submit to the Department a written  
13 complaint regarding the used vehicle dealer. The Department shall,  
14 within 10 days after it receives a complaint pursuant to this section,  
15 provide a copy of the complaint to the used vehicle dealer who is the  
16 subject of the complaint.

17 2. A complaint submitted pursuant to subsection 1 must  
18 include:

19 (a) A clear and concise statement of the complaint and the facts  
20 relating to the complaint;

21 (b) Copies of any documents relating to the complaint; and

22 (c) A statement of the manner in which the retail customer  
23 wishes to have the complaint resolved.

24 3. Upon receipt of a complaint pursuant to this section, the  
25 Department shall investigate the complaint and determine whether  
26 the used vehicle dealer who is the subject of the complaint has  
27 violated the provisions of NRS 482.36655 to 482.36667, inclusive,  
28 or the regulations adopted by the Department pursuant thereto.

29 4. If the Department determines that a used vehicle dealer has  
30 violated the provisions of NRS 482.36655 to 482.36667, inclusive,  
31 or the regulations adopted by the Department pursuant thereto, the  
32 Department shall notify the used vehicle dealer of that determination  
33 and recommend to the dealer the actions that the dealer may take to  
34 resolve the complaint.

35 5. A retail customer or used vehicle dealer who is aggrieved by  
36 the decision of the Department may appeal the decision to the  
37 Director.

38 **Sec. 16.** NRS 97.299 is hereby amended to read as follows:

39 97.299 1. The Commissioner of Financial Institutions shall  
40 prescribe, by regulation, forms for the application for credit and  
41 contracts to be used in the sale of vehicles if:

42 (a) The sale involves the taking of a security interest to secure  
43 all or a part of the purchase price of the vehicle;

44 (b) The application for credit is made to or through the seller of  
45 the vehicle;



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(c) The seller is a dealer; and

(d) The sale is not a commercial transaction.

2. The forms prescribed pursuant to subsection 1 must meet the requirements of NRS 97.165, must be accepted and acted upon by any lender to whom the application for credit is made and, in addition to the information required in NRS 97.185 and required to be disclosed in such a transaction by federal law, must:

(a) Identify and itemize the items embodied in the cash sale price, including the amount charged for a contract to service the vehicle after it is purchased.

(b) In specifying the amount of the buyer's down payment, identify the amounts paid in money and allowed for property given in trade and the amount of any manufacturer's rebate applied to the down payment.

(c) Contain a description of any property given in trade as part of the down payment.

(d) Contain a description of the method for calculating the unearned portion of the finance charge upon prepayment in full of the unpaid total of payments as prescribed in NRS 97.225.

(e) Contain a provision that default on the part of the buyer is only enforceable to the extent that:

(1) The buyer fails to make a payment as required by the agreement; or

(2) The prospect of payment, performance or realization of collateral is significantly impaired. The burden of establishing the prospect of significant impairment is on the seller.

(f) *Contain a provision which provides that if the seller elects to rescind the contract as a result of being unable to assign the contract to a financial institution with whom the seller regularly does business, the seller must provide written notice to the buyer not less than 20 days after the date of the contract.*

(g) Include the following notice in at least 10-point bold type:

### NOTICE TO BUYER

Do not sign this agreement before you read it or if it contains any blank spaces. You are entitled to a completed copy of this agreement. If you pay the amount due before the scheduled date of maturity of the indebtedness and you are not in default in the terms of the contract for more than 2 months, you are entitled to a refund of the unearned portion of the finance charge. If you fail to perform your obligations under this agreement, the vehicle may be repossessed and you may be liable for the unpaid indebtedness evidenced by this agreement.



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3. The Commissioner shall arrange for or otherwise cause the translation into Spanish of the forms prescribed pursuant to subsection 1.

4. If a change in state or federal law requires the Commissioner to amend the forms prescribed pursuant to subsection 1, the Commissioner need not comply with the provisions of chapter 233B of NRS when making those amendments.

5. As used in this section:

(a) "Commercial transaction" means any sale of a vehicle to a buyer who purchases the vehicle solely or primarily for commercial use or resale.

(b) "Dealer" has the meaning ascribed to it in NRS 482.020.

**Sec. 17.** Section 5 of this act is hereby amended to read as follows:

Sec. 5. 1. A person shall not engage in the activity of an agent for a broker, or act in the capacity of an agent in this State without first having received a license or temporary permit from the Department. Before issuing a license or temporary permit to engage in the activity of an agent, the Department shall require the applicant to submit to the Department:

(a) An application, signed and verified by the applicant, stating:

(1) That the applicant is to engage in the activity of an agent;

(2) The name ~~{}~~ and residence address ~~{and social security number}~~ of the applicant; and

(3) The name and address of the employer of the applicant.

(b) Proof of the employment of the applicant by a broker at the time the application is filed.

(c) A statement as to whether any previous application of the applicant has been denied or any previous license of the applicant has been revoked.

(d) Payment of a nonrefundable license fee of \$75. A license expires on December 31 of each calendar year and may be renewed annually upon the payment of a fee of \$40.

(e) For initial licensure, a complete set of the applicant's fingerprints and written permission authorizing the Department to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(f) Any other information the Department determines necessary.





2. The Department may issue a 60-day temporary permit to an applicant who has submitted a complete application and paid the required fee.

3. A license to act as an agent of a broker issued pursuant to this section does not authorize a person to engage in the business of selling mobile homes.

4. The Department may deny an application for a license as an agent or suspend or revoke a license issued pursuant to this section upon any of the following grounds:

(a) Failure of the applicant to establish by proof satisfactory to the Department that the applicant is employed by a broker.

(b) Conviction of a felony.

(c) Conviction of a gross misdemeanor.

(d) Conviction of a misdemeanor for a violation of any of the provisions of this chapter.

(e) Falsification of the application.

(f) Evidence of unfitness as described in NRS 482.3255.

(g) Failure of the applicant to provide any information determined necessary by the Department to process the application.

(h) Any reason determined by the Director to be in the best interests of the public.

5. An agent shall not engage in any activity, or act in any other capacity as an agent other than for the account of, or for and on behalf of, a single employer, at a specified place of business of that employer, who must be a broker.

6. If an application for a license as an agent is denied, the applicant may reapply for a license not less than 6 months after the denial.

7. An agent's license must be posted in a conspicuous place on the premises of the broker by whom the agent is employed.

8. If a person who is licensed as an agent ceases to be employed by a broker, the person's license to act as an agent is automatically suspended and the person's right to act as an agent immediately ceases, and the person shall not engage in the activity of an agent until the person has:

(a) Paid the Department a transfer fee of \$20 and submitted a certificate of employment indicating that the person has been reemployed by a broker; and

(b) Presented a current temporary permit or new license to the broker by whom the person is employed.



9. If an agent changes the agent residential address, the agent shall submit a written notice of the change to the Department within 10 days after the change occurs.

10. If a person who holds a temporary permit to act as an agent ceases to be employed by a broker, the person's permit to act as an agent is automatically suspended, the person's right to act as an agent immediately ceases and the person's application for licensure must be denied until the person has:

(a) Paid the Department a transfer fee of \$20 and submitted a certificate of employment indicating that the person has been reemployed by a broker; and

(b) Presented a current temporary permit or new license to the broker by whom the person is employed.

11. A broker who employs an agent shall notify the Department of the termination of the agent's employment not later than 10 days after the date of termination by forwarding the agent's license ~~{of the agent}~~ to the Department.

12. Any person who fails to comply with the provisions of this section is guilty of a misdemeanor except as otherwise provided in NRS 482.555.

13. As used in this section, "agent" means a person who is employed by a broker and who, for a fee or any other consideration, assists the broker in offering to provide to another person the service of arranging, negotiating or assisting in the purchase of a new or used vehicle which has not been registered or for which an ownership interest has not been taken by the broker.

**Sec. 18.** 1. This section and sections 1 to 16, inclusive, of this act become effective on October 1, 2011.

2. Section 5 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment of the support of one or more children,

are repealed by the Congress of the United States.

3. Section 17 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:



- 1 (a) Have failed to comply with a subpoena or warrant relating to
- 2 a proceeding to determine the paternity of a child or to establish or
- 3 enforce an obligation for the support of a child; or
- 4 (b) Are in arrears in the payment for the support of one or more
- 5 children,
- 6 ➤ are repealed by the Congress of the United States.

